

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Health Care Property Investors, Inc.)
 Dist. 2, Map 94M, Group D, Control Map 94M,) Lauderdale County
 Parcel 5.00, S.I. 000)
 Commercial Property)
 Tax Year 2006)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$75,000	\$3,362,700	\$3,437,700	\$1,375,080

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on April 24, 2007 in Ripley, Tennessee. The taxpayer was represented by its director of property tax, Laurence R. May, CMI. The assessor of property, Jerry Buckner represented himself and was assisted by Bryan Kinsey, TCA, the regional appraisal supervisor for the Division of Property Assessments.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 144 bed skilled nursing facility located at 118 Halliburton Road in Ripley, Tennessee. Subject property was constructed in 1981 and contains approximately 50,000 square feet of heated and cooled space.

The taxpayer contended that subject property should be valued at \$2,100,000. In support of this position, the cost and income approaches were introduced into evidence. Mr. May maintained that the cost and income approaches support value indications of \$2,080,000 and \$2,214,200 respectively and should be correlated at \$2,100,000.

The assessor contended that subject property should be valued at \$3,323,500. In support of this position, the testimony and analysis of Mr. Kinsey was offered into evidence. Mr. Kinsey relied strictly on the cost approach and concluded it supports a value indication of \$3,323,500.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$2,756,700 after rounding. As will be discussed

below, the administrative judge finds that subject property should be valued in accordance with the following cost approach:

<u>Basic Structure</u>	<u>Units/%</u>	<u>Cost</u>	<u>Total</u>
Base Cost	51,245	67.18	3,442,639
Exterior Walls	51,245	9.58	490,927
Heating & Cooling	51,245	6.64	340,267
Sprinklers	51,245	2.18	111,714
Fire Alarm System	51,245	1.36	69,693
Basic Structure Cost	51,245	86.94	4,455,240
Less Depreciation			
Physical & Functional	40%		1,782,096
Depreciated Cost	51,245	52.16	2,673,144
Miscellaneous			
Land			75,000
Paving			8,550
Total Cost	51,245	53.79	2,756,694
Rounded to Nearest	100		2,756,700

Respectfully, the administrative judge finds that Mr. May's income approach cannot provide a basis of valuation absent additional proof. The administrative judge finds insufficient evidence was introduced to support the various assumptions resulting in a loaded capitalization rate of 14.21%. Moreover, the administrative judge finds insufficient evidence was introduced to establish the value attributable to tangible and intangible personal property which must be separated from the value of the real property for ad valorem tax purposes. See *Wolfchase Galleria Ltd. Partnership* (Shelby Co., Tax Years 2001-2003) wherein the administrative judge rejected a similar argument, inter alia, as unduly speculative in contravention of Tenn. Code Ann. § 67-5-601(a).

With respect to the cost approach, the administrative judge finds that the only material difference between the parties concerned depreciation. Mr. May asserted that subject property should be appraised by assuming the actual and effective ages are equal thereby resulting in a remaining economic life of 10 years. Mr. Kinsey, in contrast, argued that 15 years constitutes the appropriate effective age thereby resulting in a remaining economic life of 20 years.

The administrative judge finds that the present appeal is a classic example of where the preponderance of the evidence supports adoption of a depreciation rate closer to the middle of the contended range rather than the seemingly high and low rates advocated by the parties. On the one hand, the administrative judge finds unconvincing Mr. May's portrayal of subject property as having had little more than routine maintenance and cosmetic improvements over the years. On the other hand, the administrative judge also

finds unconvincing Mr. Kinsey's contention that subject property has been so "upgraded" since its construction that an effective age of only fifteen (15) years should be assumed.

Ironically, the administrative judge finds the taxpayer's own proof suggests that the market would not assume 55% accrued depreciation as Mr. May does in his cost approach. In particular, the administrative judge finds that the table of market derived depreciation rates found at page 9 of Mr. May's analysis (exhibit #1) suggests such a high rate is more appropriate for older properties in larger communities that are presumably not as well maintained as the subject.

The administrative judge finds that when the proof is viewed collectively a depreciation rate of 40% should be adopted for subject property. Utilizing Mr. Mays' minimally higher replacement cost new, the stipulated land value of \$75,000 and Mr. Kinsey's unrefuted \$8,550 value for the paving, a depreciated value of \$2,756,700 results.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$75,000	\$2,681,700	\$2,756,700	\$1,102,680

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.


Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 2nd day of May, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Laurence May
Jerry Buckner, Assessor of Property